

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3350 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

AMBALAL DAMODARDAS PATEL

Versus

STATE OF GUJARAT

Appearance:

MR SD PATEL for Petitioners

MR MUKESH PATEL AGP for the Respondent Authorities.

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 24/11/98

ORAL JUDGEMENT

Rule. Service of rule is waived by Mr. Mukesh Patel, learned Assistant Government Pleader for the respondents. Short grievance with regard to the impugned order dated 16th February, 1990 rendered by the Government in respect of the demand of granting exemption under section 20 of the Urban Land (Ceiling and Regulation) Act, 1976 (hereinafter referred to as "the ULC Act") has not been entertained in respect of three survey numbers namely survey No. 381, 433 and 434/1.

The reason why the exemption was not granted in respect of these Survey Numbers has been stated to be lack of evidence on the side of the applicants. As against that, even in the written arguments, it was canvassed that the said parcels of the land were being used for the agricultural purpose. In order to substantiate this fact, even in this petition, records of right have been produced at page 10 to 27 of the petition. In my opinion, bearing in mind the facts of the case, said pieces of evidence will require consideration at the hands of the Government. Even the learned Assistant Government Pleader has submitted that instead of granting this petition by issuing any writ of mandamus, the matter might be remanded to the Government for consideration thereof afresh in respect of the survey numbers in question. Following order is, therefore, passed :

The impugned order dated 16th February, 1990 rendered by the Government in its Revenue Department is hereby set aside and the matter is remanded to the Government for considering it afresh and decide it in accordance with law after giving opportunity to the petitioners and other parties, if any, affected. The matter shall accordingly be decided as expeditiously as possible, preferably within three months from the date of receipt of these directions. Rule is made absolute only in aforesaid terms with no order as to cost.

24.11.1998. (M.S.Parikh,J.)

Vyas